

**RE: thoughts**

From: Donohue, Mark J.

To: Daugherty, Matthew Personal Privacy

12/19/2003 2:13:46 PM

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You needed a drink before you started writing that thing. I need a drink now.

Lori & John talked with madoff last night. I'll explain over that beer.

-----Original Message-----

**From:** Daugherty, Matthew

**Sent:** Friday, December 19, 2003 2:08 PM

**To:** Donohue, Mark J.

**Subject:** thoughts

On that Madoff thing, even though you are probably 10 steps ahead of where you were last night.

There are some prohibitions in the listed and options world RE a customer or fund or whatever acting as a market maker. eg, ISE has a prohibition against customers entering bids and offers in the same series. But there is no hard and fast rule against this in NASDAQ world, theoretically we could set up a shop and "make a market" through Knight or whatever. The problem is generally your transaction costs are going to outweigh what you would make on the spread.

However if you owned the MM, then set up a hedge fund and trade for "free." In addition, you could trade ahead of other customers in that there is no responsibility to them as there would be with the market maker (and customer orders are a free lunch). Win, Win. Even if other customer orders came in first there are priority issues on NASDAQ that are too complicated for this e-mail, but I think you may also be able to get around these.

Maybe the argument is in a sense piercing the corporate veil, showing that there is no real difference between Madoff the MM and Madoff the Fund.

I need a drink now.